VIA ECFS

Ms. Marlene H. Dortch Federal Communications Commission (FCC) Office of the Secretary 445 12th Street SW Washington, DC 20554

Re: CS Docket 97-80, PP Docket No. 00-67

Dear Ms. Dortch:

I am filing this letter today as a current user of retail navigation devices, a TiVo Premiere Elite and TiVo Premiere, on the Bright House Networks cable system in Tampa, Florida.

It has come to my attention through various online forums that Bright House Networks apparently is the *only* cable operator charging for Tuning Adapters. Bright House currently charges \$3.80 monthly for each of the two (2) Tuning Adapters that I'm currently leasing from Bright House Networks. This is in addition to the \$2.95 monthly fee for each of my two (2) CableCARDs.

Typical costs charged by other cable operators using Switched Digital Video are summarized in the following table. It's clearly evident that Bright House Networks is effectively charging *two to three times* the fees of other cable operators to receive all linear channels available on their network.

| Cable Operator | CableCARD Cost (\$) | Tuning Adapter Cost (\$) | Total Cost (\$) |
|------------------------|------------------------|-----------------------------|-----------------|
| Bright House Networks | 2.95 | 3.80 | 6.75 |
| Time Warner Cable | 2.00 | 0.00 | 2.00 |
| Charter Communications | 2.00 | 0.00 | 2.00 |
| Comcast | 1.75 | 0.00 | 1.75 |
| Cox Communications | 2.00 | 0.00 | 2.00 |
| Verizon | 3.99 | N/A | 3.99 |

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Bright House's policy to charge for Tuning Adapters to receive Switch Digital Video (SDV) programming undermines competition for retail devices and should cause the FCC to reconsider its decision not to mandate the Internet Protocol (IP) backchannel solution which would eliminate consumers having to bear the cost of an operator provided set-top box — precisely what Section 629 of the Communications Act was designed to accomplish. As the FCC said in its October 14, 2010 Order, "equivalent access to linear programming at an equivalent service price is essential to a retail market for navigation devices."

The requirement from Bright House Networks requiring me to *lease* a Set Top Box (Tuning Adapter) is completely contrary to the Commissions' stated goals of, "bolstering support for retail CableCARD devices so that consumers may access cable services without leasing a set-top box from their cable operators." The Commission encourages cable operators to provide Tuning Adapter STBs free of charge to consumers stating at URL http://www.fcc.gov/guides/cablecard-know-your-rights, "Receive all "linear" channels (channels other than "on-demand") in your subscription package. This includes premium channels and specialty channels. For some channels delivered using a technique called "switched digital video," you may need a second device called a "tuning adapter." This device is *typically provided at no additional charge* to CableCARD customers. FCC Rule 76.1205(b)(4)."

TiVo has demonstrated with its deployments with cable operators that an IP Backchannel is feasible that effectively eliminates the need for a Tuning Adapter for TiVo boxes. An FCC mandate for an IP Backchannel solution would greatly accelerate the adoption of retail navigation devices.

While some consumers like myself will continue to overcome obstacles like an additional *leased* Tuning Adapter to receive SDV channels for superior products like the retail devices provided by TiVo, a truly competitive marketplace for retail navigation devices simply cannot develop as long as cable operators like Bright House Networks continue to engage in conduct that erects barriers to the use of retail navigation devices in violation of the spirit of Section 629 of the Communications Act. My experience exemplifies the challenges cable subscribers too often face in seeking to connect and operate retail boxes rather than operator provided set-top boxes and is no different from the experience that many consumers faced prior to adoption of the new CableCARD rules. I urge the Commission to revisit the retail navigation device rules with respect to SDV so the behavior exemplified by Bright House Networks can be avoided in the future.

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Please do not hesitate to contact me should you have any questions regarding this letter.

Respectfully submitted,

/s/ Samuel Biller

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